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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,406

Applicant(s)

EDKINS, DAVID JOHN

Examiner

CHI Q. NGUYEN

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24 and 26-29 is/are rejected.
- 7) ☒ Claim(s) , 23-25, 30-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office action is in response to applicant's patent application filed on 1/4/2006.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on 7/14/2008 and 9/28/2007 are being considered by the examiner.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "20" has been used to designate both barrier panel and rainscreen panels (see page 7 of specification). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1-42 are objected to because of the following informalities: a phrase "equalisation" should read --equalization--; "rainscreen" should separate into two words -rain screen--; "equalise" should read --equalize--; "strandboard" should read --strand board--. Appropriate correction is required.

Claims 2-29 and 31-42 are objected to because of the following informalities: a claimed preamble for claims 2-29 should read --The rain screen apparatus-- and for claims 31-42 should read --The method--. Appropriate correction is required.

Claims 30-42 are objected to under 37 CFR 1.75(c) as being in improper form because the claim 30 states "A method of constructing a rainscreen apparatus to any one of claim 1" thus it's considered as a multiple dependent claim and claims 31-42 are depending upon the claim 1. See MPEP § 608.01(n). Accordingly, the claims 30-42 not been further treated on the merits.

Claim 4 is objected to because of the following informalities: a phrase "centre to centre" should read --center to center--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 16, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-6, 9, 11-14, 17, 22 and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 4,114,334 to Thoren.

Claim 1:

Thoren discloses in Figs. 1-2, a rain screen apparatus including: a substantially rigid air barrier 12 adapted for attachment to a building structure; a rain screen panel 21 adapted for attachment over the air barrier; a spacing member 27 adapted to provide a clearance space between the air barrier and the rain screen panel; and sealing means 19/20 adapted to provide substantial pressure equalization within the clearance space.

Claim 2:

Including an air vent 26 to atmosphere from said pressure equalized space to allow air pressure within said space to equalize with air pressure externally of said space.

Claim 3:

Wherein said apparatus is suitable for use on building frames with studs 11 placed at a predetermined interval such that said apparatus resists water ingress under predetermined wind pressure.

Claim 5:

Wherein said rigid air barrier 26 is comprised of any polymeric or cellulosic or cementitious material suitably reinforced to provide the degree of rigidity required to

resist water ingress when incorporated into said rain screen apparatus and exposed to a predetermined wind pressure according to a standardized wind test.

Claim 6:

Wherein said rigid air barrier 26 is in the form of a panel 18.

Claim 9:

Wherein said air barrier panel 18 includes fiber cement, oriented strandboard, plywood, metal, expanded polymeric foam or a combination of these (col. 4, lines 38-59).

Claim 11:

Wherein said panel includes a sheet of polymeric or substantially water repellent cellulosic material attached to the exterior surface of the panel so as substantially to prevent water from passing therethrough (col. 4, lines 38-59).

Claim 12:

Wherein said air barrier panel 18 has at least the exterior side treated with a material that repels water.

Claim 13:

Wherein said air barrier panel 18 includes a water repellent material 21.

Claim 14:

Wherein said rigid air barrier 18 is in the form of at least one thin sheet comprising a polymeric or substantially water repellent cellulosic material, said sheet having a relatively rigid reinforcing means attached thereto (Fig. 2).

Claim 17:

Wherein said rain screen panel includes a cementitious material, oriented strand board, plywood, metal, polymeric foam or a combination of these (col. 4, lines 38-59).

Claim 22:

Wherein said rain screen panel 18 is formed from an exterior cladding material.

Claim 26:

A second edge portion adapted to be located on or adjacent to an upper region of said rain screen panel provided below said air barrier, and a central portion which is contiguous with said first and second edge portions and is provided at a substantially obtuse angle to said first and second edge portions.

Claim 27:

Wherein said central portion slopes downwardly to allow water to drain over said central portion and exterior to said rain screen panel.

Claim 28:

Having a rigid air barrier and a rain screen panel and a space therebetween, said vent including a first wall adapted for location on or adjacent to said air barrier, a second wall adapted to be located on or adjacent to an internal surface of said rain screen panel, and a central portion connected between said first and second walls, said central portion having one or more apertures therein allowing liquid to drain from said space and also allowing ingress of air into said space.

Claim 29:

A sealing member having a base and at least two lips projecting from said base, said lips being spaced from each other, one lip being adapted to make a substantially

sealing contact with a rear surface of a first rain screen panel, and the second lip being adapted to make a substantially sealing contact with the rear surface of a second rain screen panel, said second panel being located adjacent to the first panel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 7-8, 10, 15, 16 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 4,114,334 to Thoren.

Claim 4:

Thoren discloses the claimed invention as stated above but does not disclose expressly wherein said studs are placed at between approximately 400 and 610 mm center to center and said predetermined wind pressure is greater than approximately 1 kPa and less than approximately 4.5 kPa. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to space the studs at the desirable location for making more strength building thus preventing a strong wind pressure. Furthermore, applicant has not disclosed the criticality of this feature.

Claims 7-8 and 18-20:

Thoren discloses the claimed invention as stated above but does not disclose expressly wherein said air barrier panel is between approximately 9, 2-11, 7-11, 2-15 5-

7 mm thick. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to have a sufficient thickness for the air barrier panel for its desirable application. Furthermore, applicant has not disclosed the criticality of this feature.

Claims 10, 15, 16 and 21:

Thoren discloses the claimed invention as stated above but does not disclose expressly wherein said air barrier panel is substantially formed from fiber cement and wherein said sheet includes a polyolefin material having a relatively rigid reinforcing means including a mesh of fiberglass, metal or polymeric material laminated to at least one surface of said sheet. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to the barrier panel is made out of fiber cement with a reinforcing mesh for making a strong panel thus for its desirable applications. Furthermore, applicant has not disclosed the criticality of this feature.

Allowable Subject Matter

Claims 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./
Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635